

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**I.F.,
Plaintiff,**

v.

**LEWISVILLE INDEPENDENT SCHOOL
DISTRICT,
Defendant.**

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§ Civil Action No. 4:14-CV-00359 (RC/KPJ)

JOINT FINAL PRE-TRIAL ORDER

This cause came before the court at a pre-trial management conference held on February 14, 2017, pursuant to Local Rule CV-16 and Rule 16 of the Federal Rules of Civil Procedure.

A. COUNSEL FOR THE PARTIES

Plaintiff: Charla Aldous
Heather Long
Christopher Payne

Defendant: Thomas P. Brandt
Stephen D. Henninger

B. STATEMENT OF JURISDICTION

This is a suit alleging a violation of Plaintiff's rights under Title IX to the Education Amendments of 1972, 20 U.S.C. 1681, *et seq.* This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§1331 and 1343. Jurisdiction is not in dispute.

C. NATURE OF THE ACTION

Plaintiff's Version:

I.F.'s lawsuit seeks to hold Lewisville Independent School District responsible for the district's deliberate indifference and retaliation after receiving reports that I.F. was sexual

assaulted and sexual harassed by peers in violation Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* I.F. seeks monetary damages recoverable under the applicable law.

Defendant's Version:

Plaintiff, a former student at the Lewisville Independent School District ("LISD"), has sued the District under Title IX. Plaintiff claims that LISD discriminated against her on the basis of her gender by failing to properly respond to and address: (1) her claim that fellow LISD students sexually assaulted her at an off-campus, non-school related function; and (2) her claim that she was being harassed and bullied by fellow LISD students about the alleged assault.

D. CONTENTIONS OF THE PARTIES

The Management Conference referenced in the Joint Pretrial Order form for the Eastern District has not yet taken place. The parties submit the following contentions at this time:

Plaintiff's Contentions:

School districts like Lewisville Independent School District that accept Federal funding make a promise to obey Title IX's mandate:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance

20 U.S.C. § 1681(a). LISD broke that promise, sexually discriminated I.F., and deprived her of access to educational programs and activities. When I.F. notified LISD that two of her classmates simultaneously sexually assaulted her and that she was being subjected to sexual harassment from other classmates that knew about the event, LISD responded with retaliation and deliberate indifference.

Title IX's implied private right of action encompasses claims of retaliation, and the elements of the claim are participation in a protected activity, adverse action by the funding recipient, and a causal connection between the protected activity and the adverse action. At trial, I.F. will ask the jury to hold LISD responsible for its retaliation against her because: (1) Title IX protected I.F.'s sexual assault and sexual harassment reports as well as her multiple requests for response to those reports; (2) LISD took adverse actions against I.F. like discouraging her from pursuing district action against the students responsible, encouraging her to leave the educational environment, and refusing to investigate her allegations for over eighty days;¹ and (3) the adverse actions LISD took were directly related to I.F.'s reports.

Title IX's implied right of action also allows claims for deliberate indifference to student-on-student sexual harassment if the recipient has actual knowledge, acts with deliberate indifference, and the harassment is so severe that it effectively bars the victim's access to an educational opportunity or benefit. At trial, I.F. will ask the jury to hold LISD responsible for its deliberate indifference to the peer-on-peer sexual harassment she endured because: (1) LISD received actual notice of the sexual assault and sexual harassment in October 2012, and was apprised of subsequent sexual harassment multiple times throughout the 2012-2013 school year; (2) LISD's response and lack of response after receiving that knowledge was deliberately indifferent, including being clearly unreasonable in light of the known circumstances; and (3) the harassment I.F. reported--- including the assault, the presence of her two rapists at school, and verbal harassment--- was so severe it created a hostile learning environment.

The defenses Defendant identifies as "affirmative defenses" are not recognized under the law and/or available to Defendant under the facts and circumstances of this case.

¹ LISD engaged in multiple retaliatory acts against I.F. because of her protected actions. The specific references above are offered as examples of those acts and not intended to represent an exclusive list.

Defendant's Contentions:

LISD contends that I.F. has not pled any claim for Title IX retaliation that is distinct from her claim of Title IX discrimination. In any event, LISD denies any retaliation against I.F. LISD denies that it violated I.F.'s rights under Title IX, in any respect. LISD contends that the initial bullying complaint which was made on I.F.'s behalf in October of 2012, did not sufficiently allege any gender-based harassment and, therefore, did not implicate Title IX protections.

Thereafter, when I.F. reported an allegation of sexual assault which allegedly occurred at an off-campus, non-school sponsored party at which no LISD personnel or adults were present, and further claimed harassment by LISD students related to that alleged sexual assault, LISD responded properly and in compliance with its obligations under Title IX. LISD was, in no way, deliberately indifferent to I.F.s Title IX complaints. To the contrary, LISD took specific, direct action to try to determine what had happened and to prevent any harassment of I.F.

First, LISD worked with I.F.'s family to have I.F. quickly enrolled in the School District's Homebound program so that she could continue her education without being subjected to an allegedly hostile environment while LISD attempted to discover what was happening. Moreover, LISD, after complying with the request of the Carrollton Police Department to delay its investigation while the Police conducted their criminal investigation into I.F.'s sexual assault allegation, thoroughly investigated the events of the party to see if the allegation of sexual assault could be proven and the alleged assailants subjected to discipline. Ultimately, due to conflicting statements and evidence about the events of the party and the alleged assault, LISD could not determine whether a sexual assault occurred.

LISD further directly responded to allegations of cyber-bullying made by I.F. by interviewing all involved students, counseling against further harassing behavior, and contacting

parents of involved students. Thereafter, the harassment from those involved did not continue, to LISD's knowledge. An additional incident of alleged bullying involving Instagram accounts was referred to the police, and resulted in the filing of criminal charges, and an LISD student being assigned to a Disciplinary Alternative Education Program as punishment for the student's involvement.

LISD denies that I.F. was deprived of access to the educational opportunities offered by LISD sufficient to invoke the protections of Title IX. LISD further denies that any alleged violation of Title IX administrative rules, directives, letters, or other communications from administrative agencies, or any alleged violation of LISD's own policies, is sufficient to establish deliberate indifference.

LISD contends that the incidents in question and alleged damages were caused in whole or in part by the acts and/or omissions of independent third-parties over whom LISD exercised no control and for whose acts and/or omissions LISD cannot be held responsible. LISD further contends that the incidents made the basis of this suit and any alleged damages therefrom were caused in whole or in part by the intervening criminal and intentional acts of independent third-parties over whom Defendant exercised no control and for whose acts and/or omissions Defendant cannot be held responsible.

LISD asserts the defense of governmental immunity.

LISD further asserts the defense of estoppel.

LISD further asserts numerous affirmative defenses with respect to I.F.'s allegations regarding alleged delays in investigating her complaints including estoppel, waiver, impossibility, interference by I.F. and/or her parents, and interference by local law enforcement who, under the authority of state law, required LISD to refrain from continuing the District's

investigation during the pendency of law enforcement's criminal investigation of I.F.'s complaints. LISD's investigation was also delayed by the request of I.F.'s mother, and by the actions of I.F.

LISD asserts that I.F. failed to exhaust her available administrative remedies.

LISD contends that I.F. failed to mitigate damages by using and/or exhausting available administrative remedies, including, but not limited to, available grievance procedures and available procedures under applicable statutes.

LISD contends that it cannot be liable for punitive/exemplary damages.

E. STIPULATIONS AND UNCONTESTED FACTS

- 1) Lewisville Independent School District received federal funding assistance for purposes of Title IX of the Educational Amendments of 1972 at all relevant times.
- 2) Hebron High School 9th Grade Center ("HHS9") and Hebron High School are schools within LISD.
- 3) According to the 2012-2013, LISD school calendar, the first day of school was August 27, 2012, and the last day was June 6, 2013.
- 4) I.F. began the 2012-2013, school year as a ninth grade student attending classes at the HHS9 center.
- 5) I.F. was fourteen years of age in September, 2012.
- 6) I.F. was a member of the Hebron Freshman Cheerleading team for part of 2012.
- 7) A.V. began the 2012-2013, school year as a ninth grade student attending classes at the HHS9 center.
- 8) A.V. was fifteen years of age in September, 2012.
- 9) A.V. remained enrolled in classes at the HHS9 center until he completed ninth grade in June, 2013.
- 10) A.V. was a member of the Hebron Freshman Football team in 2012-2013.

- 11) I.G. began the 2012-2013, school year as a ninth grade student attending classes at the HHS9 center.
- 12) I.G. was fifteen years of age in September, 2012.
- 13) I.G. remained enrolled in classes at the HHS9 center until he completed ninth grade in June, 2013.
- 14) I.G. was a member of the Hebron Freshman Football team in 2012-2013.
- 15) I.F. formally withdrew from LISD in August, 2013, and never re-enrolled.

F. CONTESTED ISSUES OF FACT AND LAW

Plaintiff's Contentions:

I.F. hereby submits her list of contested issues of fact and law. In an effort to streamline the list, the contested issues of fact specifically listed here subsume other contested issues of fact and law not specifically listed.

1. Whether I.F. was sexually assaulted by two Hebron 9th Grade Center Football Players, A.V. and I.G., on or about September 28, 2012.
 - a. Whether I.F. did not consent to or explicitly refused any sexual contact from A.V. or I.G.
 - b. Whether I.F. lacked the capacity to consent to sexual contact from A.V. or I.G. due to her age.
 - c. Whether I.F. lacked the capacity to consent to sexual contract due to impairment.
 - d. Whether A.V. admitted having oral and vaginal sex with I.F.
 - e. Whether I.G. admitted having oral sex with I.F.
 - f. Whether A.V. admitted to engaging in sexual contact with I.F. without her consent.
 - g. Whether I.G. admitted to engaging in sexual contact with I.F. without her consent.
 - h. Whether A.V. and I.G. were aware of I.F.'s impairment prior to engaging in sexual contact with I.F.
 - i. Whether A.V. has admitted to drugging I.F. prior to engaging in sexual contact with her.

- j. Whether the alleged assailants pleading of Fifth Amendment rights to questions regarding the assault create a presumption that an assault occurred.
- 2. Whether LISD demonstrated deliberate indifference to the sexual harassment and sexual assault of I.F. in violation of Title IX.
 - a. Whether LISD had actual knowledge of complaints involving I.F. that triggered Title IX obligations.
 - i. Whether LISD and its officials had actual knowledge of the sexual assault and the resulting bullying, slurs and obscenities being made about I.F.
 - ii. Whether LISD knew about the hostile educational environment created for I.F. after the sexual assault.
 - b. Whether LISD's acted with deliberate indifference in response to I.F.'s Title IX complaints.
 - i. That the appropriate legal standard for "deliberate indifference" for purposes of finding school district liability under Title IX for student-on-student harassment as when the "response to the harassment or lack thereof is clearly unreasonable in light of the known circumstances" pursuant to *Doe ex rel. Doe v. Dallas Independent School Dist.*, 220 F.3d 380, 384 (5th Cir. 2000).
 - 1. The appropriate legal standard is not that a school district can escape liability as long as it proves took "some action" regardless of the reasonableness or efficacy of it as alleged in LISD's Motion for Summary Judgment (Dkt. 240).
 - ii. Whether LISD's response to I.F.'s Title IX complaints was clearly unreasonable in the light of the known circumstances.
 - c. Whether the sex-based harassment or assault acts was so severe, pervasive, and objectively offensive that it deprived I.F. of access to educational opportunities or benefits provided by LISD.
 - d. Whether LISD created and/or subjected Plaintiff to a hostile educational environment in violation of Title IX because:
 - i. Plaintiff was a member of a protected class;
 - ii. Plaintiff was subjected to sexual harassment in the form of a sexual assault by another student, bullying, intimidation, verbal slurs, and obscenities, creating a hostile environment against her while on LISD property;

- iii. Plaintiff was subjected to harassment based on her sex; and
- iv. Plaintiff was subjected to a hostile educational environment created by:
 - 1. LISD's lack of policies and procedures,
 - 2. LISD's failure to follow federal and state laws,
 - 3. LISD's failure to train its employees to be knowledgeable and to follow policies and procedures and legal requirements under Title IX,
 - 4. LISD's custom and practice of failing to properly investigate and/or discipline male students accused of sexual assault,
 - 5. LISD's pattern and practice of behavior designed to discourage and dissuade students and parents of other students who had been sexually assaulted from seeking prosecution and protection and from seeking full investigation of sexual assaults, or
 - 6. LISD's failure to properly investigate and/or address the sexual assault, bullying, hostile environment and subsequent harassment.
- e. Whether Plaintiff has suffered and should recover reasonable damages, including for her emotional distress, psychological damage, and because her character and standing in her community have suffered from the harassment fostered as a direct and proximate result of LISD's deliberate indifference to her rights under Title IX.
- 3. Whether LISD retaliated against I.F. for taking protected action under Title IX.
 - a. Whether Plaintiff took protected action under Title IX by making complaints regarding sexual assault, harassment, or bullying while a student at LISD.
 - b. Whether LISD took adverse action against I.F. while a student at LISD.
 - c. Whether there is a causal connection between the adverse action taken against I.F. and I.F. protected activity under Title IX.
 - d. Whether Plaintiff has suffered and should recover reasonable damages, including for her emotional distress, psychological damage, and because

her character and standing in her community have suffered from LISD's retaliation in violation of Title IX.

4. Whether Plaintiff is entitled to recover attorneys' fees.
5. Whether Plaintiff is entitled to recover expert witness fees.
6. Whether Plaintiff is entitled to interest and costs.

Defendant's Contentions:

1. Whether Plaintiff's initial bullying complaint in October, 2012, sufficiently alleged gender-based harassment that implicated Title IX.
2. Whether Plaintiff was subjected to gender-based harassment that sufficiently deprived her of access to the educational opportunities or benefits provided by LISD to implicate Title IX.
3. Whether LISD had actual knowledge of gender-based harassment of Plaintiff that sufficiently deprived her of access to the educational opportunities or benefits provided by LISD.
4. Whether LISD responded with deliberate indifference to I.F.'s complaints.
5. The appropriate legal standard for deliberate indifference.
6. Whether an alleged failure to follow Title IX administrative rules, directives, letters, or other communications from administrative agencies, or a District's own policies, establishes deliberate indifference.
7. Whether Plaintiff has pled any claim for Title IX retaliation that is separate and distinct from her claim of Title IX discrimination. If so, whether LISD unlawfully retaliated against Plaintiff.
8. Whether Plaintiff is entitled to recover any damages, interest, or costs from LISD.
9. Whether Plaintiff is entitled to recover any attorney's fees from LISD.

G. LIST OF WITNESSES

Plaintiff's List of Witnesses:

A. Witnesses who will be called to testify:

1. Brian Brazil
Lewisville ISD
4207 Plano Parkway
Carrollton, TX 75010
(469-713-5183)
2. Mark Dalton
1048 Alexis Drive
Pottsboro, TX 75076
(469) 682-9969
3. Debra Denson-Whitehead
2609 22nd Street
Lubbock, TX 79410
(817) 437-6996
4. Amanda Werneke
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(469) 713-5996
5. T. Kevin Rogers
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6. Trisha Sheffield
Lewisville ISD Board of Trustees
2213 Landoine Ln.
Lewisville, TX 75056
7. Courtney Kennedy
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8. Jaime Fletcher
c/o Aldous \ Walker
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Dallas, TX 75201
(214) 526-5595
9. Paul Fletcher
c/o Aldous \ Walker
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(214) 526-5595
10. I.F.
c/o Aldous \ Walker
2311 Cedar Springs, Suite 200
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(214) 526-5595
11. S.S.
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Carrollton, TX 75010
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12. Sydney Strifler
4216 Chippewa Ct.
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(972) 394-4166
13. V.R. (a/k/a T.R.)
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Carrollton, TX 75007
(972) 394-4176
(214) 277-9379
14. H.G.
2328 Lady Cornwall Dr.
Carrollton, TX 75010
15. A.V.
3952 Creekside Lane
Carrollton, TX 75010

16. I.G.
c/o Law Office of H. Guy Smith PLLC
900 Jackson Street, Suite 750
Dallas, TX 75202
(972) 774-9000
17. Dr. Edward Dragan
Education Management Consulting, LLC
49 Coryell Street
Lambertville, NJ 08530
(609) 397-8989
18. Dr. Roger Pitman
Professor of Psychiatry
Harvard Medical School
Massachusetts General Hospital
120 Second Avenue
Charlestown, MA 02129
(617) 726-5333
19. Dr. Alexandria Doyle
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B. Witnesses who may be called to testify:

1. Rebecca MacDonald
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(972) 624-0114
2. Officer Cole Langston
Carrollton Police Dept.
2025 East Jackson Rd.
Carrollton, TX 75006
(972) 466-3290
3. M.H.
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Rowlett, TX 75089

4. Randy Gibbs
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(214) 521-8000
5. Detective Dena Williams
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6. Shea Alexander
Dallas Area Rape Crisis Center
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(972) 641-7273
7. Scot Finch
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(469) 713-5183
8. James Scott
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11. Shawn Hurd
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16. Officer William Trim
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17. Officer Zachary White
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18. Victoria Abbott
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19. Allison Sartin
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28. C.J.
(address unknown)
29. D.L.
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30. B.L.
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35. F. T.
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39. Darren Roark
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40. Natalie Grainger
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41. Lori Nelson
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42. Jody White
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43. Stephanie Scott
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44. Regina McFarland, MD
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45. Neil Jacobson, MD
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46. Howard Smith, MD
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47. H.G.
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Carrollton, TX 75010

48. C.F.
c/o Aldous \ Walker
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Dallas, TX 75201
(214) 526-5595

C. Witnesses submitted by deposition:

Plaintiff exchanged video deposition designations with Defendant in accordance with the Court's scheduling order. The following witnesses designated as "Will Call" above may be called by deposition in the event they cannot be present in person as the current designations are being made more than sixty days in advance of trial:

1. Brian Brazil
Lewisville ISD
4207 Plano Parkway
Carrollton, TX 75010
(469-713-5183
2. Mark Dalton
1048 Alexis Drive
Pottsboro, TX 75076
(469) 682-9969
3. Debra Denson-Whitehead
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(817) 437-6996

4. S.S.
4216 Chippewa Ct.
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(972) 394-4166

5. Sydney Strifler
4216 Chippewa Ct.
Carrollton, TX 75010
(972) 394-4166

6. A.V.
3952 Creekside Lane
Carrollton, TX 75010

Defendant's List of Witnesses:

A. Witnesses who will be called to testify:

1) Debra Denson-Whitehead
2609 22nd Street
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2) Amanda Werneke
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3) Mark Dalton
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(469) 682-9969

4) Cole Langston
Carrollton Police Department
2025 East Jackson Road
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(972) 466-3290

B. Witnesses who may be called to testify:

- 1) I.F.
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(214) 526-5595
(Attorney's address and phone)
- 2) Paul Fletcher
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(214) 526-5595
(Attorney's address and phone)
- 3) Jaime Fletcher
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(Attorney's address and phone)
- 4) Brian Brazil
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- 5) Kevin Rogers
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- 6) Michael Vargas
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- 7) Rebecca MacDonald
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- 8) Alex Alexander
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- 10) Danielle Trepagnier
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- 11) Scot Finch
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- 12) Dena Williams
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- 13) Victoria Abbot
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- 15) Steven Strifler
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- 16) S.S.
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- 17) Sydney Strifler
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- 18) Trisha Sheffield
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- 19) Robert Vaughn
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- 20) Christopher Fambro
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- 21) William Farley
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- 22) Shawn Hurd
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23) Eric Mach
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24) Curren McMahon
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25) Michael Strange
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26) Tommy Ellington
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27) Joanie Leach
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28) Laura Doverspike
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29) Joel Leader
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30) Kelley Ferguson
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- 31) Lana Mitchell
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Carrollton, Texas 75010
(469) 713-5996
- 32) April Carne
Lewisville ISD
1250 W. Round Grove Road
Lewisville, Texas 75067
(469) 713-5201
- 33) Johnathon Cummings
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(469) 713-5996
- 34) Randi Riordan
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(469) 713-5996
- 35) Ruth Delgada
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(469) 713-5996
- 36) Sylvia Garcia
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Lewisville, Texas 75057
(469) 713-5203
- 37) R. Hines
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Carrollton, Texas 75010
(469) 713-5996
- 38) Yanique Isom
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- 39) Nancy Bauer
1809 Concord Drive
Flower Mound, Texas 75022
(214) 616-9181
- 40) Allison Peterman
10130 Summit Run Dr.
Frisco, TX 75035
(817) 797-0050
- 41) Stacy McDonald
3381 FM 1446
Waxahachie, Texas 75167
(469) 867-0696
- 42) Laticia Bell
256 Meadow Brook Dr.
Highland Village, Texas 75077
(972) 317-5868
- 43) Parker Liles
902 Excalibur
Highland Village, Texas 75077
(214) 335-7750
- 44) Latasha Rayford
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Carrollton, Texas 75010
(469) 713-5183
- 45) Tracey Shinkle
Lewisville ISD
4207 Plano Parkway
Carrollton, Texas 75010
(469) 713-5183
- 46) Jason Chagnon
Lewisville ISD
4207 Plano Parkway
Carrollton, Texas 75010
(469) 713-5183

- 47) Greg Bradley
Prosper ISD
700 N. Coleman
Prosper, Texas 75078
(469) 219-2165
- 48) Stephanie Wood
McKinney ISD
1400 Wilson Creek Parkway
McKinney, Texas 75069
(469) 302-3200
- 49) Jill Layn
Lewisville ISD
2109 Arbor Creek Drive
Carrollton, Texas 75001
(469) 713-5971
- 50) Janell Varvil
Lewisville ISD
2109 Arbor Creek Drive
Carrollton, Texas 75001
(469) 713-5971
- 51) Cindy Nix
Lewisville ISD
2109 Arbor Creek Drive
Carrollton, Texas 75001
(469) 713-5971
- 52) Dr. Harold Neil Jacobson, M.D
Neil Jacobson Psychiatry
17440 Dallas Parkway, Suite 208
Dallas, Texas 75287
(972) 248-1717

D. Witnesses Submitted by Deposition:

Defendant exchanged video deposition designations with Plaintiff in accordance with the Court's scheduling order. The following witnesses designated may be called by deposition in the event they cannot be present in person as the current designations are being made more than sixty days in advance of trial:

- 1) Steven Strifler
4216 Chippewa Court
Carrollton, Texas 75010
(972) 394-4166
- 2) S.S.
4216 Chippewa Court
Carrollton, Texas 75010
(972) 394-4166
- 3) Sydney Strifler
4216 Chippewa Court
Carrollton, Texas 75010
(972) 394-4166
- 4) Debra Denson-Whitehead
2609 22nd Street
Lubbock, TX 79410
(817) 437-6996
- 5) Mark Dalton
1048 Alexis Drive
Pottsboro, Texas 75076
(469) 682-9969
- 6) Deposition on Written Questions of records custodian for Dr. Harold Neil Jacobson,
M.D.
17440 Dallas Parkway, Suite 208
Dallas, Texas 75287
(972) 248-1717

H. LIST OF EXHIBITS

Plaintiff's Exhibit List has been submitted.

Defendant's Exhibit List has been submitted.

I. LIST OF ANY PENDING MOTIONS

- 1) Plaintiff's Motion for Partial Summary Judgment
- 2) Plaintiff's Motion to Strike LISD's Summary Judgment Evidence
- 3) LISD's Motion for Summary Judgment
- 4) LISD's Motion to Strike Plaintiff's Expert Edward Dragan

5) Any Motions in Limine filed concurrently with this submission.

J. PROBABLE LENGTH OF TRIAL

Probable Length of Trial is 7 days.

K. MANAGEMENT CONFERENCE LIMITATIONS

None, to the parties' knowledge.

As this case involves issues of privacy related to witnesses and evidence, the parties intend to seek the Court's guidance on practical considerations in advance of trial. The parties believe a conference regarding these matters with the Court will allow them to prepare evidence and witnesses in advance and promote efficiency during trial.

L. CERTIFICATIONS

The undersigned counsel for each of the parties in this action do hereby certify and acknowledge the following:

- (1) Full and complete disclosure has been made in accordance with the Federal Rules of Civil Procedure and the Court's orders;
- (2) Discovery limitations set forth in the Federal Rules of Civil Procedure, the Local Rules, and the Court's orders have been complied with;
- (3) Each exhibit in the List of Exhibits herein:
 - (a) is in existence;
 - (b) is numbered; and
 - (c) has been disclosed and shown to opposing counsel.

Approved as to form and substance:

/s/ Charla Aldous
Charla Aldous
Attorney for Plaintiff I.F.

This final pretrial order is approved subject to prior rulings made by the court through prior court orders and prior rulings made on the record at the final pretrial conference. As stated in previous court orders, only Plaintiff's retaliation claim will proceed to trial.

So Ordered and Signed

Feb 16, 2017

/s/ Thomas P. Brandt
Thomas P. Brandt
Attorney for Defendant Lewisville ISD



Ron Clark, United States District Judge

UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

TEXAS

EXHIBIT AND WITNESS LIST

I.F. V. LEWISVILLE INDEPENDENT
SCHOOL DISTRICT

Case Number: 4:14-CV-00359(RC/KPJ)

PRESIDING JUDGE Ron Clark		PLAINTIFF'S ATTORNEY Charla Aldous		DEFENDANT'S ATTORNEY Thomas P. Brandt	
TRIAL DATE (S) January 30, 2017		COURT REPORTER		COURTROOM DEPUTY	
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES
	1				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF1-3)
	2				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF4-5)
	3				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF8)
	4				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF9)
	5				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF10-11)
	6				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF17-24)
	7				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF12-16)
	8				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF6-7)
	9				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF25)
	10				E-mail chain between Debra Denson-Whitehead and Brooke Soard (<u>See</u> , DEF26)
	11				E-mail chain between Debra Denson-Whitehead and Jaime Fletcher (<u>See</u> , DEF27)
	12				E-mail chain between Alex Alexander, Michael Strange, Mark Dalton and Amanda Werneke (<u>See</u> , DEF103)
	13				E-mail chain between Alex Alexander, Michael Strange, Mark Dalton, Amanda Werneke, and Rebecca MacDonald (<u>See</u> , DEF175-178)
	14				E-mail between Mark Dalton and Jaime Fletcher (<u>See</u> , DEF67)
	15				E-mail chain between Amanda Werneke, Jaime Fletcher, Mark Dalton and Courtney Kennedy, (<u>See</u> , DEF245-247)
	16				E-mail between Mark Dalton and Rebecca MacDonald (<u>See</u> , DEF139)
	17				E-mail chain between Amanda Werneke and Paul Fletcher (<u>See</u> , DEF41-43)
	18				E-mail chain between Amanda Werneke and Paul Fletcher (<u>See</u> , DEF44-47)
	19				E-mail chain between Amanda Werneke and Paul Fletcher (<u>See</u> , DEF147-48)
	20				E-mail chain between Amanda Werneke and Paul Fletcher (<u>See</u> , DEF48-49)
	21				E-mail chain between Amanda Werneke, Paul Fletcher, and various LISD staff (<u>See</u> , DEF50-53)
	22				E-mail chain between Debra Denson-Whitehead and Paul Fletcher (<u>See</u> , DEF102)

I.F. vs. LEWISVILLE INDEPENDENT SCHOOL DISTRICT					CASE NO. 4:14-CV-00359 (RC/KPJ)
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
	23				E-mail chain between Joel Leader, Paul Fletcher, and various LISD personnel (See, DEF123-25)
	24				E-mail chain between Kelley Ferguson, Paul Fletcher, and various LISD personnel (See, DEF126-130)
	25				E-mail chain between Amanda Werneke and Paul Fletcher (See, DEF59-64)
	26				E-mail chain between Amanda Werneke and Paul Fletcher (See, DEF82-87)
	27				E-mail chain between Amanda Werneke and Nancy Bauer (See, DEF365)
	28				E-mail chain between Amanda Werneke, Nancy Bauer, and Jonathan Cummings (See, DEF328)
	29				E-mail chain between Paul Fletcher, Amanda Werneke and other LISD staff (See, DEF329-32)
	30				E-mail chain between Amanda Werneke and various LISD personnel (See, DEF327)
	31				E-mail chain between Amanda Werneke and various LISD personnel (See, DEF326)
	32				E-mail chain between Amanda Werneke and various LISD personnel (See, DEF323)
	33				E-mail chain between Amanda Werneke and various LISD personnel (See, DEF324)
	34				E-mail chain between Jonathan Cummings, the Fletchers and other LISD personnel (See, DEF312-13)
	35				E-mail between Stacy MacDonald, the Fletchers, and other LISD personnel (See, DEF316-17)
	36				E-mail between Nancy Bauer, the Fletchers, and other LISD personnel (See, DEF318-19)
	37				E-mail between Laticia Bell, the Fletchers, and other LISD personnel (See, DEF320-21)
	38				E-mail chain between Paul Fletcher, Amanda Werneke, Michael Strange, and other LISD personnel (See, DEF374-85)
	39				E-mail chain between Paul Fletcher, Amanda Werneke, Alex Alexander, Rebecca MacDonald, and Mark Dalton (See, DEF70-72)
	40				E-mail chain between Paul Fletcher, Amanda Werneke and other LISD personnel (See, DEF403-06)
	41				E-mail chain between Paul Fletcher, April Carne, and other LISD personnel (See, DEF393-94)
	42				E-mail chain between Paul Fletcher and Amanda Werneke (See, Exhibit 10 to Paul Fletcher deposition)
	43				E-mail chain between Paul Fletcher and Amanda Werneke (See, Exhibit 11 to Paul Fletcher deposition)
	44				E-mail chain between Paul Fletcher and Amanda Werneke (See, Exhibit 12 to Paul Fletcher deposition)
	45				I.F.'s Admission, Review, and Discipline ("ARD") records (See, DEF1107-92)
	46				E-mail chain between Rebecca MacDonald and Kevin Rogers (See, DEF2767-68)
	47				List of alleged cyberbullies with notes (See, DEF1423)
	48				Offensive social media posting regarding I.F. (See, DEF1433)
	49				E-mail between Amanda Werneke and Jaime Fletcher (See, DEF1422)

* Include a notation as to the location of any exhibit not held with the case file or not available because of size

I.F. vs. LEWISVILLE INDEPENDENT SCHOOL DISTRICT					CASE NO. 4:14-CV-00359 (RC/KPJ)
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
	50				Summary of I.G. interview (<u>See</u> , DEF1385)
	51				Summary of second I.G. interview (<u>See</u> , DEF1530)
	52				Summary of A.V. interview (<u>See</u> , DEF1387)
	53				Summary of second A.V. interview (<u>See</u> , DEF1531)
	54				Summary of S.S. interview (<u>See</u> , DEF1386)
	55				Summary of second S.S. interview (<u>See</u> , DEF1532)
	56				Summary of V.R. interview (<u>See</u> , DEF1390)
	57				Summary of second V.R. interview (<u>See</u> , DEF1533)
	58				Summary of Sydsey Strifler interview (<u>See</u> , DEF1388)
	59				Summary of K.R. interview (<u>See</u> , DEF1389)
	60				Summary of S.W. interview (<u>See</u> , DEF1391)
	61				Summary of X.T. interview (<u>See</u> , DEF1392)
	62				Summary of D.L. interview (<u>See</u> , DEF1393)
	63				Summary of W.S. interview (<u>See</u> , DEF1394)
	64				Summary of M.G. interview (<u>See</u> , DEF1395)
	65				Summary of L.H. interview (<u>See</u> , DEF1396)
	66				Summary of C.M. interview (<u>See</u> , DEF1400)
	67				Summary of H.G. interview (<u>See</u> , DEF1401)
	68				HHS 9 Student Incident Report of S.S. (<u>See</u> , DEF1406)
	69				HHS 9 Student Incident Report of W.S. (<u>See</u> , DEF1407)
	70				HHS 9 Student Incident Report of M.G. (<u>See</u> , DEF1408)
	71				HHS 9 Student Incident Report of L.H. (<u>See</u> , DEF1409)
	72				HHS 9 Student Incident Report of D.L. (<u>See</u> , DEF1410)
	73				HHS 9 Student Incident Report of X.T. (<u>See</u> , DEF1411)
	74				Student Incident Report of S.W. (<u>See</u> , DEF1412)
	75				HHS 9 Student Incident Report of Sydney Strifler (<u>See</u> , DEF1415-16)
	76				Written Statement of I.F. (<u>See</u> , DEF1417-21)

I.F. vs. LEWISVILLE INDEPENDENT SCHOOL DISTRICT					CASE NO. 4:14-CV-00359 (RC/KPJ)
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS AND WITNESSES
	77				Summary of Interview of I.F. (<u>See</u> , DEF1399)
	78				PowerPoint Presentation of I.F. to LISD (<u>See</u> , "Fletcher000266-302")
	79				Hebron 9th Grade Center Summary of Findings Regarding Investigation of 9/28/12, party (<u>See</u> , DEF1383-84)
	80				Summary of alleged bullying investigation (<u>See</u> , DEF1403)
	81				Additional summary of alleged bullying investigation (<u>See</u> , DEF1405)
	82				LISD Alleged Bullying, Harassment, or Intimidation Incident School Investigation Form (<u>See</u> , DEF1402)
	83				LISD Bullying, Harassment, or Intimidation Incident School Investigation Form (<u>See</u> , DEF1404)
	84				Letter from Daniel Gibbs to Robert Wolf (<u>See</u> , DEF2882-83)
	85				Doctor's note from Dr. Regina McFarland/Park Cities Psychiatry (<u>See</u> , DEF2800)
	86				Medical records from Dr. Harold Neil Jacobson, by deposition on written questions (<u>See</u> , DEF2947-71)
	87				I.F.'s LISD middle school report card (<u>See</u> , DEF1753)
	88				I.F.'s LISD high school report card (<u>See</u> , DEF1754)
	89				LISD Policy FB (Local) (<u>See</u> , DEF2875-76)
	90				LISD Policy FB (Legal) (<u>See</u> , DEF2868-74)
	91				LISD Policy FFH (Local) (<u>See</u> , DEF1897-1903)
	92				LISD Policy FFH (Legal) (<u>See</u> , DEF2739)
	93				LISD Policy FFI (Local) (<u>See</u> , DEF1904-06 and 2879-81)
	94				LISD Policy FFI (Legal) (<u>See</u> , DEF2877-78)
	95				LISD Policy FNG (Local) (<u>See</u> , DEF1909-14)
	96				Cyberbullying documents in Plaintiff's possession (<u>See</u> Exhibit 9 to Jaime Fletcher deposition)